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Held at Lake Success, New York,  
on Wednesday, 3 May 1950, at 11 a. m.

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<u>Chairman:</u>	Mrs. ROOSEVELT	United States of America
<u>Members:</u>	Mr. WHITLAM	Australia
	Mr. NISOT	Belgium
	Mr. VALENZUELA	Chile
	Mr. TSAO	China

Members: (continued)

Mr. SORENSON	Denmark
Mr. RAMADAN	Egypt
Mr. CASSIN	France
Mr. THEODOROPoulos	Greece
Mrs. MEHTA	India
Mr. AZKOUL	Lebanon
Mr. GARCIA	Philippines
Miss BOWIE	United Kingdom of Great Britain and Northern Ireland
Mr. ORIBE	Uruguay
Mr. JEVREMOVIC	Yugoslavia

Representative of a specialized agency:

Mr. LEMOINE	International Labour Organisation (ILO)
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Representatives of non-governmental organizations:

Category A:

Miss SENDER	International Confederation of Free Trade Unions (ICFTU)
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Category B:

Mrs. NOLDE	Commission of the Churches on International Affairs
Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mr. BENNETT )	Co-ordinating Committee of Jewish Organizations
Mr. HALPERIN )	
Miss TOMLINSON	International Federation of Business and Professional Women
Miss ROBE	International Federation of University Women
Mr. GROSSMAN	World Jewish Congress

Secretariat:

Mr. SCHWELB	Assistant Director, Division of Human Rights
Mr. LIN MOUSHENG	Secretary of the Commission

MEASURES OF IMPLEMENTATION (E/1371, Annex III, E/CN.4/164/Add.1, E/CN.4/353/Add.10, E/CN.4/353/Add.11, E/CN.4/366, E/CN.4/366/Corr.1, E/CN.4/419, E/CN.4/444, E/CN.4/452, E/CN.4/457, E/CN.4/462, E/CN.4/NGO.2, E/CN.4/NGO.3, E/CN.4/NGO.4, E/CN.4/NGO.5, E/CN.4/NGO.6, E/CN.4/NGO.7, E/CN.4/NGO.8)

General debate (continued)

1. The CHAIRMAN asked the Commission to continue the general debate on measures of implementation.

2. Mr. FAMDAN (Egypt) said the question of measures of implementation touched upon the most delicate aspect of the protection of human rights, for the covenant would prove ineffective without sanctions of some kind.

3. Some delegations had argued that the right of petition should be granted to individuals and organizations as well as to States; that rights granted through an international instrument, in order to be effective, must of necessity imply the right to bring a complaint not only before the State of which the injured person was a national but before the international community as well. Other delegations had thought, however, that the Commission should proceed cautiously, for fear of giving rise to false hopes which could not be realized. The Egyptian delegation was not opposed in principle to the granting of the right of petition to organizations and individuals, but felt that the wiser course at that time would be to adopt the joint United Kingdom and United States proposal to limit the right of petition to States. To extend the right of petition at that early stage might give rise to abuses, regardless of whether effective screening machinery were established or not.

4. His delegation also favoured the insertion of measures of implementation in the body of the covenant. It had been alleged that a separate protocol, binding only upon the States which signed it, would permit a larger number of States to ratify the covenant. That procedure, however, would deprive the covenant of the machinery necessary to ensure its execution, and reduce its scope. It might also encourage States to attempt to circumvent its provisions.

5. With regard to the specific measures of implementation to be adopted, some delegations, thinking that States should execute the covenant as they saw fit, did not contemplate the establishment of international machinery to see that States fulfilled their obligations under the covenant. They believed that human rights fell within the competence of the State itself, in accordance with Article 2, paragraph 7, of the Charter, and that any international machinery for implementation of the covenant would therefore be a violation of the Charter.

6. Other delegations said that machinery should be set up whereby the international community would see that States carried out the provisions of the covenant. The Egyptian representative supported the French delegation's proposal that a permanent body should be established for that purpose. The French proposal also provided that the members of that body should be appointed by the International Court of Justice. That would lend greater weight to its decisions, as its members would be free from political influence. The United Kingdom and United States proposal to create an ad hoc body, however, did not have that advantage to recommend it.

7. His delegation favoured limiting the right of petition to Governments at that time and would support the French proposal for measures of implementation, which it wished to see included in the covenant.

8. The CHAIRMAN asked the Commission to decide whether it approved the establishment of ad hoc bodies to consider violations of human rights along the lines of the joint United Kingdom and United States proposal (E/CN.4/444).

That proposal was rejected by 7 votes to 5, with 1 abstention.

9. Mr. AZKUL (Lebanon) pointed out that he had submitted a proposal concerning the right of petition (E/CN.4/462). He thought therefore that the Commission should not vote on the powers or scope of the permanent body to be established until his proposal was discussed.

10. Mrs. MEHTA (India) observed that the Indian proposals were still before the Commission and asked that a vote should be taken on whether the Commission wished to set up a permanent body.

11. The CHAIRMAN asked the Commission to decide whether it approved the proposal to establish a permanent body to consider violations of human rights.

The proposal was adopted by 7 votes to 6, with 1 abstention.

12. Mrs. MEHTA (India) thought the Commission should decide in principle who should be granted the right of petition. In the light of that decision, a drafting group could work out detailed proposals for the Commission's consideration.

13. Mr. CASSEN (France) said the Commission should decide who should be granted the right of petition in the initial covenant on human rights.

14. Mr. AZKOUL (Lebanon) said his delegation had explained why it thought the right of petition should be granted to certain non-governmental organizations but if the Commission felt that such a provision would make it impossible for many States to ratify the covenant, he would not press his suggestion. He still believed the covenant should contain some provision to that effect, and, if the Commission agreed to take up the matter in connexion with the question of a separate protocol, he would withdraw his amendment.

15. The CHAIRMAN thought the Commission should first vote on what it wished to include in the covenant.

16. Mrs. MEHTA (India) said that she would re-introduce the Lebanese amendment if it were withdrawn, because she felt that it would be dangerous to limit the right of petition to Governments at that stage. Such a limitation might deter smaller States from exercising the right to its fullest extent. Furthermore, the right of petition should be granted only to certain qualified non-governmental organizations. The fact that States and the Economic and Social Council would be empowered, under the provisions of the Lebanese amendment to decide which organizations would be considered competent to bring complaints should provide an adequate safeguard against abuse of the right of petition.

17. Mr. ORIBE (Uruguay) agreed with the representative of India. If the Lebanese representative withdrew his amendment, the Uruguayan delegation would adopt it.

/18. The Commission

18. The Commission was drafting a covenant which would be presented to States for ratification; once it had been ratified, the Commission would be powerless to amend it. He therefore could not understand why the Commission should confine itself to taking a decision on the granting of the right of petition at that stage in its deliberations. The Commission should take a final decision on the question of the right of petition.

19. He thought the problem would be simplified if the Commission voted first on whether the right of petition should be granted to certain non-governmental organizations, and then on whether the right of petition should be granted to individuals.

20. The CHAIRMAN thought it should be borne in mind that the covenant was to be only the first in a series of documents spelling out the rights which had been proclaimed by the Declaration. She had understood the French representative's suggestion to mean that the Commission should decide whether it felt that the right of petition in the first covenant it drafted should be limited to States.

21. Mr. SORENSON (Denmark) suggested that it might clarify the situation if the Commission decided whether it wished to consider the French proposal (E/CN.4/457) as the basic working text. As it had decided in favour of a permanent body, that would seem the logical thing to do.

22. The next question was the right of petition. The French proposal did not rule out the Lebanese suggestion or the idea of a supplementary protocol. The Commission therefore could consider the question of State-to-State complaints in the light of the French proposal first, and then take up the question of the right of non-governmental organizations to present complaints. It might also consider drawing up a specific protocol to grant individuals the right of petition.

23. He thought, however, that it would be better to vote on a concrete text rather than on abstract principles.

24. The CHAIRMAN pointed out that the customary procedure was to discuss proposals in the order in which they had been submitted. The Commission could, however, proceed as it saw fit.

25. Mr. CASSIN (France) thought the Danish proposal was logical. If that was not adopted, he would move that the Commission should vote on whether the first covenant it drafted should grant States the right of petition, and then on whether the right of petition should be included in the covenant itself.

26. The questions raised by the Indian delegation (E/CN.4/452) had been answered, and the Commission must draw the logical conclusions from its decisions.

27. Mr. VALLENZUELA (Chile) supported the Danish proposal, which would enable the Commission to reach a final decision.

28. The Commission would have to decide the important question raised by the Lebanese amendment, which had been supported by the representatives of India and Uruguay, for human rights would be sorely curtailed if the right of petition were limited to States. No one could fail to recognize that to grant the State a monopoly on the protection of human rights would necessarily limit the extent of that protection.

29. He understood the technical difficulties which would arise if the right of petition were extended to individuals and non-governmental organizations. Moreover, certain injustices would occur inasmuch as the citizens of totalitarian States would not be likely to bring complaints for fear of reprisals, whereas the citizens of democratic States would not be restrained by any such fears. The Lebanese amendment provided for adequate limitations on the non-governmental organizations which would be empowered to bring complaints. Certain groups which called themselves non-governmental organizations, but which were in reality controlled by totalitarian powers, would thus be prevented from abusing the right of petition.

30. In spite of those difficulties, if the extension of the right of petition would promote democratic institutions, it should be adopted, and he urged the Commission to consider the Lebanese amendment favourably.

31. Miss BOWLE (United Kingdom) said that she could not support the Danish proposal. The Commission should first decide on the limits of the right to complaints and petitions. That decision would have a direct bearing upon the structure and functions of the organ which was to be established.

32. The dangers to which the Chilean representative had referred while discussing the extension of the right to complaints or petitions were very much in the minds of the Commission's members. In a thoroughly democratic world there would be no doubt as to the desirability of not limiting the right to petition to States. At present, however, there existed a world at war against the democratic States. Experience had made it a foregone conclusion that the forces making war on the democracies would inevitably abuse the right of individual petitions to further their attempt at breaking down the democratic machinery. The Commission's own past experience furnished sufficient proof. At the present stage, therefore, it would not be advisable to grant the right to petitions to anyone but States, and she would vote against any such proposals.

33. Mrs. MEEHA (India) said that the fact that the democracies would suffer in the sense indicated by the Chilean and United Kingdom representatives was unavoidable. If all States were democratic, there would be no need for the draft convention, and human rights would be protected everywhere. The Commission should do what it considered right. Non-governmental organizations could play a useful part in alleviating violations of human rights, and a provision granting them the right to bring complaints should be incorporated in the draft covenant. The right of the individual to petition should be embodied in a separate protocol. It seemed to her that the Lebanese amendment (E/CN.4/462) struck the proper balance: the right to complaints would be granted only to some non-governmental organizations specifically recognized for that purpose by the Economic and Social Council. The Council had a majority of democratic States so that it presumably would not recognize any non-governmental organizations likely to abuse such a right systematically. The solution suggested by the United Kingdom representative seemed tantamount to throwing out the child with the bath.

34. Mr. CASSIN (France) thought that the Danish proposal was a most logical and purely procedural suggestion. If it were adopted it would leave every member free to move amendments.

/35. Mr. SORENSON

35. Mr. SORENSON (Denmark) wished to explain in more detail the nature of, and the reasons for, his suggestion. It seemed to him that the question of principle was complicated and not limited to the two alternatives of granting the right to bring complaints, to States alone, or to others as well: intermediate possibilities also existed. In the circumstances it seemed to him that a solution could more easily be found if the Commission had before it a concrete working paper. That was why he had suggested that the French proposal (E/CN.4/452) should be regarded as a working paper. During the discussion of it, the questions of principle to which the Indian representative had referred could be settled. He had not thought of his suggestion as a by-passing of the United States-United Kingdom proposal: he had thought that the latter had been defeated by the vote taken earlier during the present meeting, since that vote had eliminated the basic idea of the joint proposal (E/CN.4/444).

36. Mr. NISOT (Belgium) could not agree with the Danish representative. The vote in question had not disposed of the whole of the joint proposal, but merely of one of its points. The United States-United Kingdom proposal had been submitted first and should therefore be taken as a basis of discussion.

37. Mr. THEODOROPoulos (Greece) agreed with the Belgian representative. Both the United States-United Kingdom and the French proposals remained before the Commission, since the vote taken earlier had merely dealt with one of the points of the joint proposal. Perhaps the two proposals could be combined, if not entirely, then at least in part.

38. Mrs. MEHTA (India) stated that the text originally submitted by her delegation (E/1371, pages 46-47) had not been withdrawn and was still before the Commission. It might perhaps be possible for the authors of the three proposals to agree on a text once a decision had been taken on the issue of principle. If, however, the Commission did not feel that an abstract discussion of the principle was desirable, she would vote for the Danish representative's procedural suggestion.

39. Mr. ORIBE (Uruguay) thought that the French text had become the basis of discussion as a result of the vote taken earlier. It would be illogical to interpret the vote differently, for the French proposal was based upon the idea of a permanent organ while the United States-United Kingdom proposal was based on the idea of ad hoc bodies. The Commission had decided in favour of the former, so that the French text constituted the best basis of discussion. The authors of the United Kingdom-United States proposal could move amendments to the French text. He therefore supported the Danish representative's procedural suggestion.

40. The CHAIRMAN ruled that the decision taken earlier in the meeting had no bearing at all upon the important questions of the structure, functions and operation of the permanent body to be established.

41. Mr. WHITLAM (Australia) thought, like the Greek representative, that it might prove possible to reconcile the proposals before the Commission. Consultation among the authors might prove fruitful and, if so, should be attempted. The vote on a permanent body and ad hoc bodies had not been entirely decisive: it might be possible to provide for both in the form of a continuing panel -- a permanent body -- the members of which would constitute themselves ad hoc organs from time to time, as required. If that were done, the advantages of permanency and variability might both be available. At any rate, it would be useful to consider such a compromise. He feared that if it were ignored the divergent lines of approach would harden, and the Commission would be in an impossible position. To avoid that, he supported the suggestion that the representatives of France, India, the United States and the United Kingdom should consult with a view to producing a more or less agreed text for the Commission's consideration.

42. Mr. RAMADAN (Egypt) stated that the question before the Commission had three distinct aspects: (1) Should provision for some implementation measures be embodied in the draft covenant or in separate protocols?; (2) Should the right to complaints and petitions be extended to States, individuals and non-governmental organizations?; and (3) Should there be a permanent body or ad hoc organs?

/43. The last

43. The last question had already been decided in favour of a permanent body, so that in that respect only the French idea of a permanent commission was before the members.

44. The CHAIRMAN suggested that the Commission should vote on the following question: "Shall the Commission include in this Covenant some implementation measures?"

45. In reply to a question asked by Mr. AZKOUL (Lebanon), the CHAIRMAN confirmed that a decision on that point would not in any way prejudice the possibility of including other implementation measures in a separate protocol.

The Commission unanimously decided to include some implementation measures in the draft covenant.

46. Mrs. MEHTA (India) said that she had voted for the inclusion of implementation measures in the draft covenant, but that only a part of the desirable measures of implementation would be so included. In other words, their inclusion would not complete the task, and additional implementation measures would have to be embodied in a separate protocol.

47. Mr. AZKOUL (Lebanon) had been encouraged by the statements of the representatives of India and Uruguay to maintain his amendment (E/CN.4/462). When he had previously stated that he would consider withdrawing the suggestion of including in the draft covenant a clause authorizing some national non-governmental organizations to file complaints if a provision to that effect were included in a separate protocol, he had been motivated by the thought of inducing as many States as possible to adhere to the instrument.

48. To meet various objections, his delegation had successively withdrawn from its original position: it had withdrawn its suggestion that the right to petition should be granted to individuals, limiting itself to the suggestion that it should be accorded to non-governmental organizations; it had then further narrowed that idea by suggesting that the right in question should be granted only to national non-governmental organizations recognized by the State for that purpose; and it had finally limited its suggestion even further until it had been cast in the form in which it presently appeared in document E/CN.4/462.

/In a spirit

In a spirit of further compromise, he had indicated the possibility of a conditional withdrawal of the amendment. None of those conciliatory moves had led to any concessions on the part of those opposed to the substance of the Lebanese amendment. In the circumstances, he felt justified in maintaining the amendment as it appeared in document E/CN.4/462.

49. The United Kingdom representative's remarks concerning the war against the democratic States were not without force. He did not, however, think that bona fide non-governmental organizations should be deprived of a right which all the members of the Commission recognized as desirable, merely because such a right might be abused by other organizations. Furthermore, the body with which complaints would be filed could be relied upon to reject accusations made in bad faith as well as any false accusations, so that the position of the democratic States, far from being weakened, would ultimately be strengthened.

50. In conclusion, he wished to thank the representatives of India and Uruguay for their support of his amendment and to ask them whether they would consider becoming co-authors thereof.

51. The CHAIRMAN said that three successive votes on principle would be taken: first, that the implementation machinery should apply to the complaints of States against other States; secondly, to complaints by non-governmental organizations, chosen on a basis to be determined subsequently; and, thirdly, to petitions by individuals.

52. Mr. CASSIN (France) emphasized that it was a question of knowing whether those principles would be placed in the body of the covenant. The French delegation had always been firmly convinced, as could be seen in its initial proposal for article 25 of the measures of implementation (E/1371, annex III), that petitions ought to be submitted by organizations and private persons and that that right should be embodied in a covenant as soon as possible. It had, however, been compelled to recognize that the current objections to that proposal, such as that advanced by the United Kingdom representative, might lead to delay in the completion of the <sup>existing</sup> draft covenant -- a delay which his delegation was most anxious to avoid -- unless a separate protocol was drafted to cover that

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right. He would be prepared to accept that idea, however, only provided that adequate safeguards were given, such as that of a <sup>very large</sup> minimum number of ratifications. He would, therefore, vote with regret against the Lebanese amendment, solely in order to expedite the completion of the draft covenant in its existing form. The French position with regard to the submission of petitions by individuals or groups would be made clear in the proposed protocol.

53. The CHAIRMAN put to the vote the question of principle that the machinery of implementation should apply to complaints of States against other States.

That principle was adopted unanimously.

54. The CHAIRMAN called for the vote on the question of principle that that machinery should also apply to non-governmental organizations.

That principle was rejected by 7 votes to 4, with 3 abstentions.

55. The CHAIRMAN put to the vote the question of principle that that machinery should apply to the petitions of individuals.

That principle was rejected by 8 votes to 3, with 3 abstentions.

56. The CHAIRMAN agreed with the representatives of Greece and Australia that the United States and United Kingdom delegations might be able to find areas of agreement between their proposal (E/CN.4/444) and that of the French delegation (E/CN.4/457). There were, however, considerable differences between the procedures suggested. A consultation between those delegations, together with the Indian delegation, might be able to produce a compromise text, with alternatives indicated where no agreement had been possible.

57. Mr. ORIBE (Uruguay) felt very strongly that the discussion had not yet reached a stage at which the drafting of a joint compromise proposal would be desirable. The Chairman's suggestion raised a question of principle. Long experience had shown the great prestige enjoyed by such compromise proposals,

/particularly

particularly when the delegations concerned were those of the great Powers; the smaller countries felt a certain reluctance in submitting amendments to the text. Moreover, the votes taken at that meeting had dealt only with matters of principle; the question of procedures remained to be fully debated. The principles involved needed far more exhaustive discussion in public; the Chairman's suggestion might well curtail the requisite debate in addition to curtailing the submission of amendments.

58. Furthermore, the joint text would be a compromise text and in it many features of the French proposal might be lost. A number of delegations, however, believed that the French proposal provided the absolute minimum of what was needed and wished to go even further than it did. He therefore formally opposed the Chairman's suggestion and demanded the continuance of the debate at the following meeting. The delegations concerned would be free to consult on a compromise text after the subject had been fully debated at that meeting.

59. Miss BCWIE (United Kingdom) supported the Uruguayan representative's proposal. A great deal of time would be required to work out the proposed compromise text; delegations other than the sponsors of the proposals would wish to join in the consultation; the result would merely be an informal and lengthy discussion of matters which might better be debated in public by the Full Commission.

60. Mr. CASSIN (France) agreed that there would not be adequate time to prepare a satisfactory working paper, even if the proposed consultation were substituted for the following meeting. Difficulties of translation would undoubtedly be encountered and there might not be enough time for the text to be printed and distributed. Furthermore, any such text should be regarded as a working paper, not as a joint proposal sponsored by the four delegations concerned.

61. Mr. AZKOUL (Lebanon) agreed with the French representative. Moreover, the texts might be altered and members of the Commission would require time to study them before they discussed the new text. He suggested that the representative of Denmark, as an expert in international law, might wish to give the delegations concerned the benefit of his advice.

62. The CHAIRMAN assured the Uruguayan representative that neither the right to submit amendments nor the debate would be curtailed. The delegations concerned would merely seek any areas of agreement between their proposals and would submit alternative drafts for points on which no agreement could be reached. The resulting text would be a working paper rather than a formal joint proposal. If no agreement was reached, the Commission would still have the original proposals before it as the basis for further debate. The Belgian representative might wish to join in the consultation.

63. Mr. SORENSON (Denmark) and Mr. NISOT (Belgium) thought that only the authors of the proposals before the Commission should meet in consultation, as several other representatives might also wish to attend. The working group should be small and informal.

64. Mr. NISOT (Belgium) could not agree with the Uruguayan representative; it was unprecedented for delegations to object to consultation among other delegations. He agreed with the French representative that time would be required for the preparation of the proposed joint compromise text and proposed that the Commission should postpone its next meeting and request the four delegations concerned to meet and submit a working paper, with alternative drafts where necessary, to the Commission.

65. Mr. TSAO (China) observed that the working group would not be a formal drafting sub-committee, so that it was open to any representative who wished to attend to do so. The vote should be taken simply on the question whether the Commission wished to meet on that afternoon.

66. The CHAIRMAN pointed out that the purpose of the proposed consultation was the production of a basic working paper. All the decisions taken hitherto had been decisions on principle, not on texts. Votes on principle, however, settled nothing; the debate would inevitably be reopened when a definite text was submitted to the Commission. The longer the delay before a text was discussed, the longer would be the discussion on that text. The sole reason for her proposal was to avoid such delay and the duplication of debate.

67. Mr. AZKOUH (Lebanon) said that the vote should be taken in the form suggested by the Chinese representative in order that the Commission should not be committed to definite approval of the proposed consultation.

68. Mr. ORIBE (Uruguay) proposed that the full debate should be continued at that afternoon's meeting.

That proposal was rejected by 8 votes to 6.

69. The CHAIRMAN called for a vote on the Chinese representative's proposal that the Commission should not meet that afternoon.

That proposal was adopted by 8 votes to 5, with 1 abstention.

70. Miss BOWIE (United Kingdom) remarked that the French and United Kingdom delegations had voted against the Chinese representative's proposal.

71. Mr. SCRENSON (Denmark), to meet an objection by the Uruguayan representative, proposed that the Commission should ask the United Kingdom, United States, French and Indian delegations to meet and work out a compromise proposal to the broadest extent possible and submit it to the Commission.

That proposal was adopted by 9 votes to 2, with 3 abstentions.

72. Mr. ORIBE (Uruguay) explained that he had voted against the Danish proposal as he believed it to be very dangerous at that stage, because many delegations thought that it might be difficult to submit amendments to the compromise proposal and because they desired a more exhaustive debate.

73. The CHAIRMAN reassured the Uruguayan representative; delegations would still be at perfect liberty to submit amendments and there would be no curtailment of the debate.

The meeting rose at 1.15 p.m.